

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONTE McCLELLON,

Petitioner,

-against-

COLLETTE PETERS, FEDERAL BUREAU
OF PRISONS DIRECTOR; E. RICKARD,
WARDEN OF F.C.I. OTISVILLE,

Respondent.

25-CV-1767 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Petitioner Donte McClellon, who was incarcerated at FCI Otisville, but now appears to be residing in a halfway house in Washington State, brings this petition under 28 U.S.C. § 2241 under the First Step Act (“FSA”), 18 U.S.C. § 3632. Specifically, he argues that the Bureau of Prisons (“BOP”) failed to credit him for completing evidence-based recidivism reduction programs and productive activities. Petitioner contends that he is eligible to earn FSA credits and that he exhausted his administrative remedies with the BOP. (ECF 1.)

Petitioner previously filed a substantially similar petition seeking the same relief. That matter is pending before the Honorable Vernon S. Broderick of this Court. *See McClellon v. Rickard*, ECF No. 1:24-CV-10054 (VSB) (BCM) (S.D.N.Y. Jan. 24, 2025) (issuing an order directing the government to answer the petition) (“*McClellon I*”).

The Court has reviewed the petition and concludes that it should be construed as a supplemental petition in *McClellon I*. The Court therefore directs the Clerk of Court to docket the petition in this action (ECF No. 1) as a supplemental petition in *McClellon I*, No. 24-CV-10053. The Court dismisses this matter without prejudice.

Because the petition makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to enter judgment dismissing this case without prejudice.

SO ORDERED.

Dated: March 17, 2025
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge